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DEPARTMENT OF COMMERCE

International Trade Administration

(C-520-806)

Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates: Final Affirmative Countervailing Duty Determination

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (“the Department”) determines that countervailable subsidies are being provided to producers and exporters of circular welded carbon-quality steel pipe (“circular welded pipe”) from the United Arab Emirates (“UAE”).

DATES: Effective (Insert date of publication in the *Federal Register*).

FOR FURTHER INFORMATION CONTACT: Joshua Morris or Dustin Ross, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1779 or (202) 482-0747, respectively.

Petitioners

The petitioners in this investigation are Allied Tube and Conduit, JMC Steel Group, United States Steel Corporation, and Wheatland Tube Corporation (“Wheatland Tube”).

Period of Investigation

The period for which we are measuring subsidies, or period of investigation, is January 1, 2010, through December 31, 2010.

Case History

The following events have occurred since the *Preliminary Determination*.¹

The Department conducted verification of the Government of the UAE's ("GUAЕ"), Universal Tube and Plastic Industries, Ltd., KHK Scaffolding and Formwork LLC, and Universal Tube and Pipe Industries LLC (collectively "Universal"), and Abu Dhabi Metal Pipes & Profiles Industries Complex LLC and Alita Trading DMCC's (collectively "ADPICO") questionnaire responses from June 19, through June 28, 2012, and issued verification reports on August 16 (GUAЕ), August 21 (ADPICO), and August 22, 2012 (Universal).

The GUAЕ, Universal, and Wheatland Tube submitted case briefs on August 30, 2012. ADPICO submitted a rebuttal brief on September 5, and the GUAЕ, Universal, and Wheatland Tube submitted rebuttal briefs on September 6, 2012.

On September 20, 2012, the Department issued a post-preliminary analysis memorandum. *See* Memorandum to Paul Piquado, Assistant Secretary for Import Administration, "Countervailing Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates: Post-Preliminary Analysis Memorandum," (September 20, 2012) ("Post-Prelim"). On September 26, 2012, the Department received affirmative briefs on the issues addressed in the Post-Prelim from the GUAЕ, Universal, and Wheatland Tube. On October 1, 2012, the Department received an affirmative brief from ADPICO. On October 2, 2012, the Department received rebuttal briefs from ADPICO, the GUAЕ, Universal, and Wheatland Tube.

Scope Comments

In accordance with the preamble to the Department's regulations, we set aside a period of

¹ *See Circular Welded Carbon-Quality Steel Pipe From the United Arab Emirates: Preliminary Negative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination*, 77 FR 19219 (March 30, 2012) ("*Preliminary Determination*").

time in our initiation notice for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of that notice.² As described in the *Preliminary Determination*, SeAH Steel VINA Corp. (“SeAH VINA”) filed comments on December 5, 2011, urging the Department to modify the scope description. No further comments on this issue were received.

For the reasons explained in the *Preliminary Determination*, the Department is not adopting SeAH VINA’s proposed modification of the scope.

Scope of the Investigation

This investigation covers welded carbon-quality steel pipes and tube, of circular cross-section, with an outside diameter (“O.D.”) not more than 16 inches (406.4 mm), regardless of wall thickness, surface finish (*e.g.*, black, galvanized, or painted), end finish (plain end, beveled end, grooved, threaded, or threaded and coupled), or industry specification (*e.g.*, American Society for Testing and Materials International (“ASTM”), proprietary, or other) generally known as standard pipe, fence pipe and tube, sprinkler pipe, and structural pipe (although subject product may also be referred to as mechanical tubing). Specifically, the term “carbon quality” includes products in which: (a) iron predominates, by weight, over each of the other contained elements; (b) the carbon content is 2 percent or less, by weight; and (c) none of the elements listed below exceeds the quantity, by weight, as indicated:

- (i) 1.80 percent of manganese;
- (ii) 2.25 percent of silicon;
- (iii) 1.00 percent of copper;
- (iv) 0.50 percent of aluminum;

² See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997), and *See Circular Welded Carbon-Quality Steel Pipe from India, the Sultanate of Oman, the United Arab Emirates, and the Socialist Republic of Vietnam: Initiation of Countervailing Duty Investigations*, 76 FR 72173 (November 22, 2011).

- (v) 1.25 percent of chromium;
- (vi) 0.30 percent of cobalt;
- (vii) 0.40 percent of lead;
- (viii) 1.25 percent of nickel;
- (ix) 0.30 percent of tungsten;
- (x) 0.15 percent of molybdenum;
- (xi) 0.10 percent of niobium;
- (xii) 0.41 percent of titanium;
- (xiii) 0.15 percent of vanadium;
- (xiv) 0.15 percent of zirconium.

Subject pipe is ordinarily made to ASTM specifications A53, A135, and A795, but can also be made to other specifications. Structural pipe is made primarily to ASTM specifications A252 and A500. Standard and structural pipe may also be produced to proprietary specifications rather than to industry specifications. Fence tubing is included in the scope regardless of certification to a specification listed in the exclusions below, and can also be made to the ASTM A513 specification. Sprinkler pipe is designed for sprinkler fire suppression systems and may be made to industry specifications such as ASTM A53 or to proprietary specifications. These products are generally made to standard O.D. and wall thickness combinations. Pipe multi-stenciled to a standard and/or structural specification and to other specifications, such as American Petroleum Institute (“API”) API-5L specification, is also covered by the scope of this investigation when it meets the physical description set forth above, and also has one or more of the following characteristics: is 32 feet in length or less; is less than 2.0 inches (50mm) in outside

diameter; has a galvanized and/or painted (*e.g.*, polyester coated) surface finish; or has a threaded and/or coupled end finish.

The scope of this investigation does not include: (a) pipe suitable for use in boilers, superheaters, heat exchangers, refining furnaces and feedwater heaters, whether or not cold drawn; (b) finished electrical conduit; (c) finished scaffolding;³ (d) tube and pipe hollows for redrawing; (e) oil country tubular goods produced to API specifications; (f) line pipe produced to only API specifications; and (g) mechanical tubing, whether or not cold-drawn. However, products certified to ASTM mechanical tubing specifications are not excluded as mechanical tubing if they otherwise meet the standard sizes (*e.g.*, outside diameter and wall thickness) of standard, structural, fence and sprinkler pipe. Also, products made to the following outside diameter and wall thickness combinations, which are recognized by the industry as typical for fence tubing, would not be excluded from the scope based solely on their being certified to ASTM mechanical tubing specifications:

- 1.315 inch O.D. and 0.035 inch wall thickness (gage 20)
- 1.315 inch O.D. and 0.047 inch wall thickness (gage 18)
- 1.315 inch O.D. and 0.055 inch wall thickness (gage 17)
- 1.315 inch O.D. and 0.065 inch wall thickness (gage 16)
- 1.315 inch O.D. and 0.072 inch wall thickness (gage 15)
- 1.315 inch O.D. and 0.083 inch wall thickness (gage 14)
- 1.315 inch O.D. and 0.095 inch wall thickness (gage 13)
- 1.660 inch O.D. and 0.047 inch wall thickness (gage 18)
- 1.660 inch O.D. and 0.055 inch wall thickness (gage 17)

³ Finished scaffolding is defined as component parts of a final, finished scaffolding that enters the United States unassembled as a “kit.” A “kit” is understood to mean a packaged combination of component parts that contain, at the time of importation, all the necessary component parts to fully assemble a final, finished scaffolding.

1.660 inch O.D. and 0.065 inch wall thickness (gage 16)

1.660 inch O.D. and 0.072 inch wall thickness (gage 15)

1.660 inch O.D. and 0.083 inch wall thickness (gage 14)

1.660 inch O.D. and 0.095 inch wall thickness (gage 13)

1.660 inch O.D. and 0.109 inch wall thickness (gage 12)

1.900 inch O.D. and 0.047 inch wall thickness (gage 18)

1.900 inch O.D. and 0.055 inch wall thickness (gage 17)

1.900 inch O.D. and 0.065 inch wall thickness (gage 16)

1.900 inch O.D. and 0.072 inch wall thickness (gage 15)

1.900 inch O.D. and 0.095 inch wall thickness (gage 13)

1.900 inch O.D. and 0.109 inch wall thickness (gage 12)

2.375 inch O.D. and 0.047 inch wall thickness (gage 18)

2.375 inch O.D. and 0.055 inch wall thickness (gage 17)

2.375 inch O.D. and 0.065 inch wall thickness (gage 16)

2.375 inch O.D. and 0.072 inch wall thickness (gage 15)

2.375 inch O.D. and 0.095 inch wall thickness (gage 13)

2.375 inch O.D. and 0.109 inch wall thickness (gage 12)

2.375 inch O.D. and 0.120 inch wall thickness (gage 11)

2.875 inch O.D. and 0.109 inch wall thickness (gage 12)

2.875 inch O.D. and 0.134 inch wall thickness (gage 10)

2.875 inch O.D. and 0.165 inch wall thickness (gage 8)

3.500 inch O.D. and 0.109 inch wall thickness (gage 12)

3.500 inch O.D. and 0.148 inch wall thickness (gage 9)

3.500 inch O.D. and 0.165 inch wall thickness (gage 8)

4.000 inch O.D. and 0.148 inch wall thickness (gage 9)

4.000 inch O.D. and 0.165 inch wall thickness (gage 8)

4.500 inch O.D. and 0.203 inch wall thickness (gage 7)

The pipe subject to this investigation is currently classifiable in Harmonized Tariff Schedule of the United States (“HTSUS”) statistical reporting numbers 7306.19.1010, 7306.19.1050, 7306.19.5110, 7306.19.5150, 7306.30.1000, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085, 7306.30.5090, 7306.50.1000, 7306.50.5050, and 7306.50.5070. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under the investigation is dispositive.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised by parties to this investigation in the case and rebuttal briefs, as well as the Post-Prelim related case and rebuttal briefs, are addressed in the Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, entitled “Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates” (October 15, 2012) (hereafter, “Decision Memorandum”), which is hereby adopted by this notice. Attached to this notice as an Appendix is a list of the issues that parties have raised and to which we have responded in the Decision Memorandum. This Decision Memorandum is a public document and is on file electronically via Import Administration’s Antidumping and Countervailing Duty Centralized Electronic Service System (“IA ACCESS”). IA ACCESS is available to registered users at <http://iaaccess.trade.gov> and in

the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the internet at <http://www.trade.gov/ia/>. The signed Decision Memorandum and the electronic versions of the Decision Memorandum are identical in content.

Use of Adverse Facts Available

For purposes of this final determination, we have relied in part on facts available and have drawn an adverse inference with respect to the facts available, in accordance with sections 776(a) and (b) of the the Tariff Act of 1930, as amended (“the Act”), to determine the subsidy rates for one of the mandatory respondents. For a full discussion of these issues, *see* the Decision Memorandum, at “Use of Facts Otherwise Available and Adverse Inferences.”

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we have calculated an individual countervailable subsidy rate for each respondent. Section 705(c)(5)(A)(i) of the Act states that for companies not individually investigated, we will determine an all-others rate equal to the weighted average of the countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates, and any rates based entirely on adverse facts available under section 776 of the Act. Notwithstanding the language of section 705(c)(5)(A)(i) of the Act, we have not calculated the “all-others” rate by weight averaging the rates of ADPICO and Universal, because doing so risks disclosure of proprietary information. Therefore, for the all-others rate, we have calculated a simple average of the two responding firms’ rates.

On this basis, we determine the total net countervailable subsidy rates to be:

Exporter/Manufacturer	Net Subsidy Rate
Abu Dhabi Metal Pipes & Profiles Industries Complex LLC; Alita Trading DMCC	6.17%
Universal Tube and Plastic Industries, Ltd.; KHK Scaffolding and Formwork LLC; Universal Tube and Pipe Industries LLC	2.06%
All-Others	4.12%

In accordance with section 705(c)(1)(C) of the Act, we are directing U.S. Customs and Border Protection to suspend liquidation of all entries of circular welded pipe from the UAE that are entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the *Federal Register*, and to require a cash deposit or bond for such entries of merchandise in the amounts indicated above.

If the United States International Trade Commission (“ITC”) issues a final affirmative injury determination, we will issue a countervailing duty order pursuant to section 706(a) of the Act. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated deposits or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (“APO”), without the written consent of the Assistant Secretary for Import Administration.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Paul Piquado
Assistant Secretary
for Import Administration

October 15, 2012_
(Date)

APPENDIX

List of Comments and Issues in the Decision Memorandum:

A. Tariff Exemptions on Imported Equipment, Machinery, Materials, and Packaging Materials Under the Federal Law of 1979 and/or GCC Industrial Law

Comment 1 *De Jure* Specificity of Tariff Exemptions

Comment 2 Tariff Exemptions as Export Subsidies

Comment 3 Application of AFA Due to the GUAE's Failure to Provide Industry Usage Data

Comment 4 Countervailability of Alita's Tariff Exemptions

B. Subsidies Within the Jebel Ali Free Zone

Comment 5 Scope of the Tariff Exemptions Program: UAE Customs Territory and the JAFZ

Comment 6 Regional Specificity of Tariff Exemptions in the JAFZ

Comment 7 Application of Facts Available to Universal Plastic Due to Non-Cooperation Regarding Subsidies in the JAFZ

C. The GUAE's Provision of Natural Gas for LTAR

Comment 8 Scope of the Investigation of the GUAE's Provision of Natural Gas for LTAR

Comment 9 Whether the Department Should Delay its Finding or Apply AFA Due to Non-Cooperation for the Provision of Natural Gas for LTAR

D. Other Programs

Comment 10 Non-Existence of Alleged Programs under the Federal Law of 1979 and/or the GCC Industrial Law

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